

Honorable members of the House Ways and Means and Judiciary Committees, I grew up with pictures of Jesus and John F. Kennedy on the walls of my childhood home. I came from a family of proud Democrats. I recall when learning about government in school, I asked my Dad, why are unions good. He replied, "They protect workers from evil people." How ironic as a Police Officer of twenty seven years, I have been protecting people from "evil," but now I find myself losing those very protections that being a Union Member have provided me through Collective Bargaining, such as due process, progressive discipline, and a right to appeal. The new Police Reform Bill S2820 appears to go beyond reforming tactics and procedures, which should be directed to protecting citizens from excessive force, and appears to be being used a subterfuge to begin breaking unions and removing hard fought collective bargaining rights that guarantee employees conditions which provide them with dignity , liberty, autonomy, and due process. My question is who are next, Teachers, Firefighters, and DPW. Is today's message, the working class no longer has clout? How about Police Officers, who literally put their lives on the line day and night; making split second decisions, while protecting the citizens of the Commonwealth from anarchy, violence, and crime.

On the evening of June first of this year I found myself under attack from an unruly crowd who after the conclusion peaceful protest, decided hours later to physically attack Police Officers on Main St. in Worcester. At one point, myself and several officers were alerted to a male on the roof of a business. This male was in the process of trying to light a Molotov cocktail. I could see him struggling to get his lighter to work. The first thought that went into my head was, God I don't want to be burned to death, please not like this God. Was this male in imminent threat to our lives? Yes; however, this male who was in a position to incinerate several officers, was talked out of throwing the bottle of gasoline by a Police Sergeant. I use this example to illuminate and edify you to the amount of restraint I see exhibited every day by the men and women of the Worcester Police department. For the record, No one hates a bad cop more than a good cop. The protections afforded us through collective bargaining allow officers to do their jobs and make split second decisions without apprehension and timidity, which can lead to an officer losing his or her life. Not to mention a sense of apathy which can set in, this would bring the most harm to underserved communities who demand effective, compassionate and empathetic policing in their communities.

In so far as the change to qualified immunity, the Senate's proposed change would leave Police Officers second guessing themselves out of fear of frivolous lawsuits. Colorado is the only state which has curtailed such protections. Based on the Senate's recent debate over the issue of qualified immunity, it is exceedingly clear that there is much confusion and ambiguity as to the unintended consequences of the proposed changes. In any event if the "House," moves to change the language of qualified immunity, it should at the very minimum delineate that city and towns "Will or shall indemnify their employees."

Furthermore, in regards to the makeup of the POSAC board I believe due to the nature, complexity, discretion afforded, and the nuances of our profession, we should be entitled to have those who have had actual law enforcement backgrounds investigating and adjudicating discipline. Not to be glib, but it would not seem reasonable or fair to have a Surgeon go before a board comprised of lay persons who have no background, education, or experience as a surgeon, needless to say another doctor of a different specialty. Police Officers have earned and deserve the right to a fair, unbiased, and informed board.

According to the Senate Ways and Means Chairman Michael Rodrigues, "We took bits and pieces of different ideas, and did what we always do in the Senate: we tried to put together the best piece of legislation as we could." I would respectfully proffer that what was put together was far less than a thorough and thoughtful piece of legislation. This is evinced the use of force standards which were haphazardly taken in a fragmentary manner from the Los Angeles police Departments recent use of force reforms. The following is an excerpt from Senate Bill S2820.

*(e) A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportional to the threat of imminent harm to a person. For purposes of this subsection, use of the vehicle itself shall not constitute imminent harm.*

Based on this Language, If a Police Officer Observed for instance a motor vehicle maliciously driving into a parade of people and plowing them down, the Officer based on this language, would not be able to stop the vehicle and it's operator by use of a firearm; However the Los Angeles Police had the foresight to anticipate such a tragic event and offered the following language within their policy.

*"Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape."*

The following is an excerpt taken from Senate Bill S2820.

*(b) A law enforcement officer shall not use physical force upon another person unless deescalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to: (i) effect the lawful arrest of a person; (ii) prevent 51 of 71 the escape from custody of a person; or (iii) prevent imminent harm and the amount of force used is proportional to the threat of imminent harm*

Based on this language an officer would not be able to use force in an innumerable amount of instances. As an example, an officer would not be able to restrain a person for a mental health commitment per MGL. 123. Section 12. An officer would not be able to physically direct an inebriated person from the

middle of a roadway without placing the person under arrest. An interesting anecdote which I remember should speak volumes. I remember a few years back when Saint Joseph's Church was going to be closed. In an act of civil disobedience, several elderly women stated they would not leave the church until they were either arrested or physically escorted out of the church. The men and women of the Worcester Police Department helped these ladies in making their statement by physically escorting the women out in a passive and professional manner. The ladies were extremely grateful that we were able to assist them in their act of civil disobedience. Again there are innumerable instances where officers may need to use force which does not require an arrest, preventing escape from custody, or to prevent imminent harm. The following again shows how the Los Angeles police Department had foresight, intelligence, and judgement when formulating their revised Use of Force Policy.

*Use of Force – Non-Deadly. It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance.*

It is with great respect and humility that I ask you to consider my testimony when promulgating legislation relative to Police Reform.

Respectfully,

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